THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.8857 OF 2007

DATED: 26-04-2007

BETWEEN

V. Satyanarayana Rao, S/o. V.C. Rao,
Occ: Business, R/o. Kodada,
Nalgonda District.

…PETITIONER

AND

The Assistant Commissioner of Police,
Balanagar, Cyberabad and another.

…RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the respondents in not giving necessary police protection to him on the basis of his representation dated 06.04.2007 in respect of land admeasuring Ac.98.10 guntas in Sy.No.172 of Hydernagar Village, Balanagar Mandal, Ranga Reddy District belonging to him and others.

2. Petitioner submits that Sy.No.172 of Hydernagar Village, Balanagar Mandal, Ranga Reddy District admeasuring Ac.198.20 guntas is part of Item No.38 of Schedule IV of C.S.No.14 of 1958 on the file of this Court and the suit was preliminarily decreed on 28.06.1963. He further submits that the preliminary decree holders assigned their share of the land admeasuring Ac.98.10 guntas fallen to their share by Deed of Assignment dated 29.11.1995 in favour of Kazim Nawaz Jung and M/s. Cyrus Investments Limited. Pursuant to the assignment an Application No.961 of 1995 was filed by Mirza Nazeer Baig and others for recognizing the Deed of Assignment, Application No.962 of 1995 was filed by the aforesaid persons for impleading

them as defendants 298 to 317 and Application No.963 of 1995 was filed for modification of the orders passed in Application No.266 of 1983 dated 21.01.1984 and for issuing a warrant of delivery of possession. The said applications were allowed by orders of this Court dated 28.12.1995. Pursuant to the said orders the petitioner and others filed E.P.No.4 of 1996 in Application Nos.962 and 963 of 1995 on the file of the District Judge, Ranga Reddy District for delivery of possession and the District Judge issued warrant to the Bailiff to give possession of the said land by order dated 29.03.1996 and accordingly the Court Bailiff delivered the possession on 17.04.1996 to the petitioner and others after preparing necessary panchanama for delivery of possession. Thereafter, petitioner and others filed Application No.516 of 1998 in C.S.No.14 of 1958 for passing final decree and this Court by order dated 24.04.1998 allowed the said application and final decreed has been passed in respect of the land in an extent of Ac.98.10 guntas in Sy.No.172, Hydernagar village, Balanagar Mandal, Ranga Reddy District. The said order reads as follows:

> "This Court Doth order and Decree as follows:
> That the property in an extent of Ac.98.10 guntas in Sy.No.172 of Hydernagar (V) Ranga Reddy District of Item 30 of Schedule IV have been delivered possession to the defendant Nos.298 to 317 by the District Judge, Ranga Reddy District on 17.04.1996 in E.P.No.4 of 1996. Hence this Final Decree is passed in respect of property shown in the Schedule which is part of Item No.38 of Schedule IV in C.S.No.14 of 1958."

3. The schedule of the property is shown as Ac.98.10 guntas of land bearing Sy.No.172 of Hydernagar Village bounded on the East by S.No.15, 173 and 174, West by 66' wide road in S.No.172, North by Sy.No.66 and 65 and South by National Highway No.9, Bombay.

In fact, the final decree was also engrossed on the Non-Judicial Stamp of Rs.133-00 for the value of Rs.4,415-40 ps. for defendant nos.298 to 317 as per Article 40 Schedule 1 (A) of Indian Stamp Act and the final decree was also communicated to the Collector, Ranga Reddy District and The District Registrar, Ranga Reddy District. However, as the stamp duty was collected based on the suit value, to resolve any possible controversy with regard to

payment of stamp duty based on the present market value, the petitioner and others paid the deficit stamp duty of Rs.78,35,465/- together with a penalty of Rs.1,64,435/- vide document No.11769/2006 dated 05.01.2007. Therefore, the said final decreed passed is receivable in evidence before any Court of law.

4. However, it is stated, that the final decree proceedings passed in Application No.516 of 1998 in C.S.No.14 of 1998 has become final. As there was long delay in passing the final decree, some persons claiming title from different sources filed objections claiming their right and all their objections have been considered and rejected by this Court in C.S.No.14 of 1958. The Apex Court also in respect of the said property has upheld the title of the decree holders i.e. petitioner and others. It is stated that though the petitioner and others are in continuous possession and enjoyment of the said property pursuant to the deliver of possession in E.P.No.4 of 1996 and pursuant to the final decree, some unauthorized persons without having any right, title and possession have been,

of late, attempting to interfere with the peaceful possession of the petitioner and others. As it is very difficult to tackle with the said antisocial elements and land grabbers, who are having an eye on the property, it is the duty of the police to protect the immovable properties of the petitioner and others citizens whose title has been upheld by this Court. It is stated that the petitioner made a representation dated 06.04.2007 before the respondents for rendering necessary police protection to the lives as well the properties of the petitioner and others.

5. Petitioner relied on the judgments of the Apex court in **P.R. MURLIDHARAN v. SWAMI DHARMANANDA THEERTHA PADAR**[1] and **HOWRAH MILLS CO. LTD v. MD. SHAMIN**[2] and submits that it is the duty of the police of the State to maintain law and order and provide necessary police protection to the property of the citizens in discharge of their statutory duties.

6. In **Murlidharan's** Case (1 supra) the Supreme Court held that a Writ of Mandamus directing the police authorities to give protection to the person of a writ petitioner can be issued, when the court is satisfied that there is a threat to his person and the authorities have failed to perform their duties. Of course, in the said judgment, there was some dispute with regard to the property, but in the instant case, there is no dispute with regard to the right of the decree holders and therefore, it is the duty of the police to protect the settled rights in respect of the aforesaid immovable property as settled by this Court. The Supreme Court further held that a writ for police protection for the limited purpose for protection of the rights declared by the decree or by an order of the civil Court can be issued but it cannot be extended to cases where the rights have not been determined either by the civil Court or at least at an interlocutory stage in an unambiguous manner. In the instant case, as stated above, a final decree has been passed and possession has been delivered and the deficit Court fee on the final decree has been paid, therefore, I am of the opinion that petitioner is entitled for necessary police protection.

Having regard to the facts and circumstances of the case, the writ petition is disposed of directing the respondents to give necessary police protection to the petitioner pursuant to his representation dated 06.04.2007 in respect of the land admeasuring Ac.98.10 guntas in Sy.No.172 of Hydernagar Village, Balanagar Mandal, Ranga Reddy District, in respect of which a final decree has been passed in Application No.516 of 1998 in C.S.No.14 of 1958 by the order this Court dated 24.04.1998. There shall be no order as to costs.

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V. ESWARAIAH, J

April 26, 2007
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[1] (2006) 4 SCC 501

[2] (2006) 5 SCC 539